

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

COLTON LEEKLEY-WINSLOW,

Case No. 19-CV-0587 (SRN/KMM)

Plaintiff,

v.

ORDER

FAIRVIEW HEALTH SERVICES, ET
AL.

Defendants.

This matter is before the Court under its responsibility for case management. On June 12, 2020, the Court entered an Order staying this case for a period of 30 days in response to defense counsel's letter indicating that Mr. Leekley-Winslow had passed away. The Court's stay order instructed defense counsel to take steps to serve a formal notice of suggestion of death on Mr. Leekley-Winslow's next-of-kin. On June 25, 2020, defense counsel filed a formal suggestion of death, which was served on Mr. Leekley-Winslow's next-of-kin on June 25, 2020. Under Rule 25 of the Federal Rules of Civil Procedure, a "decedent's successors or representatives" may make a motion to substitute as the proper party when a party dies while the action is pending and the claim is not extinguished. Fed. R. Civ. P. 25(a)(1). Such a motion must be made "within 90 days after service of a statement noting the death," and if not, "the action must be dismissed." *Id.*

On Wednesday, September 23, 2020, 90 days will have passed since defense counsel served the notice of suggestion of death on Mr. Leekley-Winslow's next-of-kin. If a motion to substitute is not served and filed within that time by Mr. Leekley-

Winslow's successors or representatives, this action will have to be dismissed pursuant to Rule 25. Accordingly, the Court will continue the stay imposed on June 12th through September 23, 2020, or until a motion to substitute is filed, whichever is earlier.

IT IS SO ORDERED.

Dated: July 17, 2020

/s/ Katherine M. Menendez

Katherine M. Menendez
United States Magistrate Judge